

MARVIN HOLLIS, E-31508  
HIGH DESERT STATE PRISON  
P.O. BOX 3030, C-8-127  
SUSANVILLE, CALIF. 96127  
IN PRO-PCR

FILED  
08 APR 25 PM 1:33  
RICHARD W. HILKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MARVIN GLENN HOLLIS,  
PLAINTIFF  
VS.  
ELUY MEDINA,  
DEFENDANT

CASE NO. C-07-2980-TEH (PR)  
OPPOSITION AND OBJECTION TO  
DEFENDANTS REPLY TO PLAINTIFF'S  
OPPOSITION TO MOTION TO DISMISS.

PLAINTIFF hereby oppose and objects to defendants  
REPLY to plaintiff's opposition to motion to dismiss.  
Respondents comprehension of the facts, laws, and  
plaintiff's opposition is misplaced. Respondents  
REPLY is off point and is intended to confuse  
the court. Respondent assert that plaintiff  
APPEAL Log# SVSP-D-07-1415 was untimely/  
is unreasonable based on the evidence in this  
case and refuted by the assignment of appeal  
Log# SVSP-D-07-1415 and attachments to plaintiff  
opposition Attorney General informal response  
to habeas corpus case number HC5711.

The Appellate Defendant refer to in their reply as being untimely regarding my appeal submitted on December 25, 2006 appealing a guilty finding to Rules violation report # C-06-03-0012R was deemed timely submitted as my appeal challenging the guilty finding to RVR# C-06-03-0012R was improperly screened out. The (RVR) # C-06-03-0012R final copy was issued to plaintiff on 12-11-06 not 12-1-06 as defendant is attempting to manipulate and be dishonest to the court that the (RVR) ~~was~~ final copy was issued to plaintiff on 12-1-06. In any event, the appeal challenging RVR# C-06-03-0012R has nothing to do with the current issue whether or not I exhausted my administrative remedy. The appeal at issue whether or not I exhausted my administrative remedy to bring this action is SVSP-D-07-1415 which in fact was timely submitted. Appeal # SVSP-D-07-1415 was submitted 3 days after defendant retaliation not to assign my appeal dated 12-25-06 challenging RVR# C-06-03-0012R.

This RETALIATION had a chilling effect and did not serve a Legitimate penological interest or institutional goals. Plaintiff has a constitutional and federal statutory right not to be retaliated against because of plaintiff's protected conduct.

Rhodes v. Robinson 408 F.3d 559, 567-68

9th CIR. (2005) The way defendant argue would foreclose a prisoner from bringing a retaliation claim. injury asserted by plaintiff, that defendant retaliation infringed my right to file prison grievances. BRUCE v. VIST 351 F.3d 1283 (9th CIR. (2003))

HINES v. GOMEZ 108 F.3d 265 9th CIR. (1997)

Rhodes v. Robinson 408 F.3d 559, 567-68 as stated in the opposition appeal # SVSP-D-07-1415 was indeed timely and submitted well within the 15 day time limitations. Defendant has erroneously ~~stated that plaintiff~~ stated that plaintiff filed an untimely appeal which is refuted by the file, and documents in this case.

FOR the foregoing ~~REASONS~~ REASONS AND REASONS  
AS stated IN Plaintiff's opposition, Plaintiff  
Respectfully Request FOR the COURT to deny  
defendant's motion to dismiss AND motion  
FOR qualified Immunity AND order defendant  
to file A motion FOR summary Judgment AND  
other action AS the court MAY deem proper.

Dated: 4-22-08

Respectfully submitted,  
Maurin Glenn Hollis  
- Plaintiff -

DECLARATION

CASE NO. C-07-2980 - TEH-PR

I DECLARE AS FOLLOWS;

1. THAT I RECEIVED RVR# C-06-03-0012R ON 12-11-06 AND CONTINUOUSLY NOTIFIED DEFENDANT AND PROVIDED SUFFICIENT INFORMATION AND EVIDENCE THAT I RECEIVED THE (RVR) ON 12-11-06 AND I SUBMITTED A APPEAL ON 12-25-06 WITHIN 15 DAYS CHALLENGING THE GUILTY FINDING TO (RVR) # C-06-03-0012R.
2. THAT ALVAREZ INFORMED ME THAT HE DID NOT TALK TO DEFENDANT ABOUT RVR# C-06-03-0012R WHILE I WAS HOUSED AT SALINAS VALLEY STATE PRISON.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED THIS 22 DAY APRIL 2008 AT SUSANVILLE CALIF.

MURRIN HOLLISS  
- PLAINTIFF -



Exhibit "A"

supporting documents

Exhibit "A"

Ex 8





455 GOLDEN GATE AVENUE, SUITE 11000  
SAN FRANCISCO, CA 94102-7004

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E-Mail: Stacey.Schesser@doj.ca.gov

September 10, 2007

The Honorable Gary E. Meyer  
Monterey County Superior Court  
240 Church Street  
Salinas, CA 93902-0414

**FILED**

SEP 11 2007

LISA M. GALDOS  
CLERK OF THE SUPERIOR COURT  
S. GARSIDE DEPUTY

RE: INFORMAL RESPONSE  
In re Marvin Hollis, Case No. HC 5711

Dear Judge Meyer:

This letter is written pursuant to the court's request for an informal response to inmate Marvin Hollis's petition for writ of habeas corpus. Petitioner Hollis is a California state inmate at Salinas Valley State Prison who alleges that the prison failed to properly process his administrative appeals and contests the outcomes of his Rules Violation Reports.

\* After reviewing Hollis's petition and speaking with prison staff, it was discovered that Hollis's appeal submitted on December 25, 2006 contesting rule violation report number C-06-03-0012R was improperly screened out. Based on the discovery that this appeal was timely submitted, the appeal is now approved for a Second Level Response. According to the information available, it appears that the merits of this appeal will be addressed by Second Level Appeal Response. However, any modification order is contingent on Hollis re-submitting the original appeal with attached supporting documentation. Additionally, Hollis should attach this informal response letter per the request of the Appeals Coordinator.

With respect to the second appeal, Log Number SVSP-D-07-01510, the appeals office has also determined that it will reexamine Hollis's appeal to determine if there was a due process violation. Again, this is contingent on Hollis resubmitting the original appeal with attached supporting documentation and a copy of this informal response letter. Hollis should re-submit this appeal and direct it to Appeals Coordinator E. Medina's attention.

Because Hollis has received the relief requested, namely a review of his administrative appeals, these claims should be dismissed as moot. As a general principle, it is the duty of a court to decide only "actual controversies" by judgments which can be carried into effect. "[A]lthough a case may originally present an existing controversy, if before decision it has, through act of the parties or other cause, occurring after the commencement of the action, lost

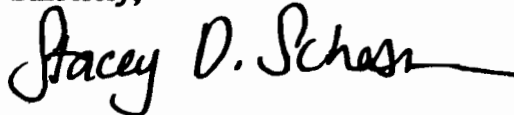
September 10, 2007

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that essential character, it becomes a moot case or questions which will not be decided by the court." (*Wilson v. Los Angeles County Civil Service Com.* (1952) 112 Cal.App.2d 450, 453.)

With respect to his substantive claims, including whether he was properly found guilty of the rule violations, the court cannot review these claims because they have yet to be administratively exhausted. It is well settled that an inmate must exhaust all administrative remedies available to him before he may seek relief on a habeas corpus petition. (*In re Dexter* (1979) 25 Cal.3d 921, 925; *In re Muszalski* (1975) 52 Cal.App.3d 500, 503.) Adherence to the exhaustion principle ensures deference to the expertise and discretion of administrative agencies and forestalls a deluge of untimely petitions to an often overburdened judiciary. (*McKart v. United States* (1969) 395 U.S. 185, 193-195.) Hollis must first fully exhaust his administrative remedies and allow the prison to fully investigate and review any issues before judicial review is proper. Accordingly, respondent respectfully requests that this petition be dismissed without prejudice to Hollis.

Sincerely,



STACEY D. SCHESSER  
Deputy Attorney General  
State Bar No. 245735

For EDMUND G. BROWN JR.  
Attorney General

SDS:ls

cc: Eloy Medina, SVSP Appeals Coordinator



**DECLARATION OF SERVICE BY U.S. MAIL**

**Case Name: In re Hollis**

**No.: HC 5711**

**I declare:**

**I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.**

**On September 10, 2007, I served the attached**

**INFORMAL RESPONSE**

**by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:**

**Marvin G. Hollis  
E-37508  
Salinas Valley State Prison  
P. O. Box 1020  
Soledad, CA 93960-1020  
*in pro per***

**I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 10, 2007, at San Francisco, California.**

**L. Santos  
Declarant**

***L. Santos*  
Signature**

DUE TO CLERICAL ERROR AND WORKLOAD  
AT THE TIME, THE FINAL COPY FOR  
RVL COB-03-0017R WAS ISSUED  
ON 12/11/02 AT 1900.  
IF QUESTIONS ARISE PLEASE CONTACT  
ME AT 6584

  
VERUMEN

(1)  
(B)



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTION

**RULES VIOLATION REPORT**

(B)

CDC NUMBER E-37503	INMATE'S NAME HOLLIS	RELEASE/BOARD DATE	INST SUSP	HOUSING NO.	LOG NO. 006
VIOLATED RULE NO(S) 3005(c)		SPECIFIC ACTS Battery on a Peace Officer	LOCATION C8 Shower	DATE 04-18-05	TIME 1115hrs.

CIRCUMSTANCES On 03-17-06, the Rules Violation Report (CDC 115) log #005-04-0049, dated 04-18-05, was ordered reissued and reheard by Chief Deputy Warden A. Hedgpeth pursuant to memorandum dated 03-17-06. On 04-18-05, at approximately 1520 hours while performing my duties as C8 Ad-Seg Officer, performing escorts when I entered building 3 C-Pod Inmate Hollis (E-37503, C8-2260) was inside C-Pod shower banging on the shower door and pressing on the alarm button. I told Inmate Hollis to calm down and stop banging on the shower door and pressing on the alarm button, and once we got our Ad-Seg inmate secured in his cell, the Control Booth Officer will let him out of the shower. Inmate Hollis did not listen and continued to bang on the shower and press the alarm. Once our inmate was secured, I went over to C-Section Shower and attempted to calm Inmate Hollis down while trying to get the Control Booth Officers attention. I told inmate Hollis to stop pressing the alarm button with negative results. I placed my hand over the alarm button next to the shower and Inmate Hollis stated "I can do what I want and if I want to get you, I can" and then aggressively grabbed upon the wrist area, I pulled back quickly and walked away from the shower. Officer Zamora walked up and opened the shower not knowing not knowing what had taken place. Inmate Hollis stated he needed to see the supervisor and I then advised Officer Zamora that inmate Hollis had grabbed my wrist and that he needed to be placed in mechanical restraints (handcuffs). Officer Zamora then placed handcuffs on inmate Hollis and I followed the escort to Facility "C" Medical.

REPORTING EMPLOYEE (Typed Name and Signature) L. Goodlett, Correctional Officer	DATE 4/21/06	ASSIGNMENT C8 Ad-Seg Extra	RDO'S F/Sa.
REVIEWING SUPERVISOR'S SIGNATURE <i>[Signature]</i>	DATE 03/24/06	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING	
CLASSIFIED <input type="checkbox"/> ADMINISTRATIVE <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION: B	DATE 3/24/06	CLASSIFIED BY (Typed Name and Signature) P. [Signature] ROYCE
HEARING REFERRED TO <input type="checkbox"/> HO <input checked="" type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/> FC			

**COPIES GIVEN INMATE BEFORE HEARING**

<input type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE) <i>[Signature]</i>	DATE 4/21/06	TIME 2100	TITLE OF SUPPLEMENT [Blank]
<input type="checkbox"/> INCIDENT REPORT LOG NUMBER: 01-105	BY: (STAFF'S SIGNATURE) <i>[Signature]</i>	DATE 4/21/06	TIME 2200	BY: (STAFF'S SIGNATURE) <i>[Signature]</i>

HEARING  
05-04-057

**Plea:** Inmate HOLLIS entered a plea of **NOT GUILTY** at this RVR hearing.

**Findings:** Inmate HOLLIS was found **GUILTY** of OCR §3005(c), specifically "Battery On A Peace Officer", a Division "B(1)" offense. This finding is based on the preponderance of evidence presented at the hearing which does substantiate the charge. The evidence presented at the hearing included: (Findings Can't See OCCR-115C)

**Disposition:** Inmate HOLLIS was assessed 0 days forfeiture of credits due to loss of time constraints. Hearing was not held within 30 days of the date the inmate was provided a copy of the OCCR-115.

**Additional Disposition:** Inmate HOLLIS was counseled, warned and reprimanded.

**Additional Disposition: Mitigation:** Recommended by Clinician Yes ☐ No ☒  
SHO Agrees Yes ☒ No ☐

**Classification Referral:** Refer to UOC for Program Review.

REFERRED TO <input type="checkbox"/> CLASSIFICATION <input type="checkbox"/> BPT/NAEA	ACTION BY: (TYPED NAME) C. Barroga, Correctional Lieutenant		SIGNATURE <i>[Signature]</i>	DATE 11/17/06	TIME 1310
REVIEWED BY: (SIGNATURE) C. Ponder, Facility Captain	DATE 11/17/06	CHIEF DISCIPLINARY OFFICER'S SIGNATURE M. P. [Signature] III, CDO		DATE 11/17/06	TIME [Blank]
<input checked="" type="checkbox"/> COPY OF CDC 115 GIVEN INMATE AFTER HEARING	BY: (STAFF'S SIGNATURE) <i>[Signature]</i>	DATE 12/11/06	TIME 1200		

STATE OF CALIFORNIA

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## RULES VIOLATION REPORT - PART C

CDC NUMBER E-37508	INMATE'S NAME HOLLIS	LOG NUMBER 006-03-0012R	INSTITUTION SVSP	TODAY'S DATE 11/17/06
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input checked="" type="checkbox"/> HEARING <input type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER			

Hearing Date: 11/17/06.

Time: 1310 hours.

Any Postponement Explained: N/A.

**Inmate Plea and Statement:** Inmate HOLLIS entered a plea of **NOT GUILTY** and stated: "I request not guilty in the interest of justice. The RVR incident indicate it happened at 1520 hours which is contrary to Officer Zamora written report. In addition, the RVR has two different Log Number and date."

**Inmate's Health:** Inmate HOLLIS claims to be in good health and prepared to proceed with the disciplinary process.

**MSDS:** Inmate HOLLIS is a participant in the Mental Health Services Delivery System at the COPS level of care. The circumstances of the RVR do not indicate that Inmate HOLLIS exhibit any bizarre behavior that would raise concerns about his mental health. However, after Inmate HOLLIS was escorted to and placed into a holding cell after this incident Inmate HOLLIS attempted to commit suicide. The act of attempting to commit suicide raises concerns about his mental health. Therefore, per *Coleman vs. State of California* agreement. An evaluation of the Mental Health Assessment was completed by S. H. Smith, Ph.D. on 04/11/06. At the hearing, Inmate HOLLIS did not demonstrate any strange, bizarre or irrational behavior.

A Mental Health Assessment was completed by S. H. Smith, Ph.D. on 04/11/06 and revealed the following information:

Q1) Are there any Mental Health factors that would cause the Inmate to experience difficulty in understanding the disciplinary process and representing his interest in the hearing that would indicate the need for the assignment of a Staff Assistant?

A1) No.

Q2) In your opinion, did the Inmate's Mental disorder appear to contribute to the behavior that led to the RVR?

A2) No.

Q3) If the Inmate was found guilty of the offense, are there any Mental factors that the hearing Officer should consider in assessing the penalty.

A3) No.

**IE PROCESS:** Date of Discovery: 04/18/05.  
Reissue/Rehear MD Order date: 03/17/06.  
CCR-115-MH served on: 11/07/05.  
Incident Package served on: 03/29/05.

Hearing started on: 11/17/05.  
Initial RVR copy served on: 03/29/05.  
Investigative Employee served on: 11/07/05.  
D.A. Rejected date: 08/09/05.

**D.A. Referral:** This matter was referred to the Monterey County District Attorney's Office for possible Felony Prosecution.

**D.A. Postponement:** On 04/25/05, Inmate HOLLIS requested the hearing be postponed, pending the outcome of the D.A. referral, as indicated by his signature on the initial CCR-115A. On 08/09/05, this case was returned to ISU indicating the case has been Rejected by the D.A. Pursuant to CCR §3316(D)(2), a decision to not prosecute or a court's dismissal of criminal charges without acquittal shall not prohibit or alter a departmental disciplinary hearing on the rule violation charges.

C. Barroga, Correctional Lieutenant

(HEARING CON'T SEE CCCR-115C)

<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER 	DATE SIGNED 11/17/06	
	GIVEN BY: (Staff's Signature) 	DATE SIGNED 12/1/06	TIME SIGNED 1530



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTION

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## RULES VIOLATION REPORT - PART C

CDC NUMBER E-37508	INMATE'S NAME HOLLIS	LOG NUMBER 006-03-00121	INSTITUTION SVP	TODAY'S DATE 11/17/06
<input type="checkbox"/> SUPPLEMENTAL <input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input checked="" type="checkbox"/> HEARING <input type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER				

**Time Constraints:** Were not met, however, hearing was conducted with no forfeiture of credits being assessed per 3320(a)(1). Hearing was not held within 30 days of the date the Reissue/Rehear MDO Order dated 03/17/06. Inmate HOLLIS acknowledged receiving all documents used for this hearing 24 hours prior to the hearing.

**TABE Score:** Inmate HOLLIS TABE Reading Score was Above 4.0 as noted in the Central File. Inmate HOLLIS read the RV aloud and was able to demonstrate his understanding of the RVR and the disciplinary process through discussion with the S/D.

**Staff Assistant (SA):** Staff assistant was not assigned per OCR §3315 (d)(2)(A).

**Investigative Employee (IE):** Inmate HOLLIS requested and does meet the criteria for assignment of an Investigative Employee. Correctional Officer C. A. Salopek was assigned. Officer C. A. Salopek interviewed Inmate HOLLIS as part of the investigative process, gathered information from witnesses, asking each witness specific questions posed by Inmate HOLLIS and follow up questions posed by I.E. for clarification purposes. Officer C. A. Salopek prepared his report, to include his summation of the facts, and provided a copy of the report to Inmate HOLLIS more than 24 hours prior to this hearing.

**Evidence Requested or Used:** There was no evidence requested or used.

**External/Outside Evidence:** N/A.

**Video Tape Evidence:** N/A.

**Confidential Information:** N/A.

**Witness Requested:** Inmate HOLLIS requested the following witnesses to be present at the hearing:

- 1) Reporting Employee (R.E.) Correctional Officer L. Goodlett; S/D Granted via Speaker Phone.
- 2) Correctional Officer L. Zamora; S/D Granted.
- 3) Investigative Employee Correctional Officer C. A. Salopek; S/D Denied this witness due to this S/D determined that this requested witness would not provide any further information that would be relevant to the hearing.
- 4) Facility G-8 Control Booth Officer; S/D Denied due to Control Booth Officer did not witness the incident.

**Witness Testimony at Hearing:** The following Granted witnesses testified at the hearing:

- 1) Inmate HOLLIS asked R.E. Officer L. Goodlett the following questions via Speaker Phone:

Q1) What wrist did I allegedly grab?

A1) I think my right wrist.

Q2) Inmate HOLLIS was pressing the button with negative result. How did you place your hand over the alarm button?

A2) When you took your hand away.

Q3) How did I allegedly grab your wrist?

A3) You had your hand through the shower door and grabbed my wrist.

Q4) Where was Officer Zamora at the time of battery?

A4) He was not next to me, I think he was at cell door.

- 2) S/D asked R.E. Officer L. Goodlett the following question(s) via Speaker Phone:

Q1) At about what time did the incident occurred?

A1) Don't recall the time whether it happen on Second Watch or Third Watch.

C. Barroga, Correctional Lieutenant

(HEARING CON'T SEE CDCR-115C)

SIGNATURE OF WRITER <i>C. Barroga</i>		DATE SIGNED 11/17/06	
GIVEN BY: (Staff's Signature) <i>[Signature]</i>		DATE SIGNED 12/1/06	TIME SIGNED 1530
<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE			

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

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## RULES VIOLATION REPORT - PART C

CDC NUMBER E-37508	INMATE'S NAME HOLLIS	LOG NUMBER 006-03-0012R	INSTITUTION SVSP	TODAY'S DATE 11/17/05
<input type="checkbox"/> SUPPLEMENTAL <input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input checked="" type="checkbox"/> HEARING <input type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER				

3) Inmate HOLLIS asked Officer L. Zamora the following questions:

Q1) What direction were you facing when you were at the podium and 'C' section phone?

A1) I was facing towards the Control Booth and talking to Control Booth Officer.

Q2) Did you release me from the shower after or before Officer Goodlett inform you that I allegedly grabbed his wrist at 1115 hours?

A2) I release you from the shower before Officer Goodlett informed me of the incident.

Q3) At what time did this allegedly incident occurred and whether it happened during Second Watch or Third Watch?

A3) At about 1115 hours during Second Watch.

4) S/O asked Officer L. Zamora the following questions:

Q1) Who was your partner in C-8 'C' section at the time of incident?

A1) It was Correctional Officer L. Goodlett.

Q2) Were you by (next to) Officer Goodlett side at the time of the incident? If not, where were you?

A2) No, I was between the podium and the 'C' section telephone.

Q3) When / Where did Officer Goodlett informed you that HOLLIS grabbed his wrist?

A3) Officer Goodlett informed me during the escort at nearby the C2 observation gun.

*TRAVELER*

 Enemy Concerns: There was no enemy concerns related with this disciplinary hearing.

Findings: Inmate HOLLIS is found GUILTY as charged. This finding is based upon the following preponderance of evidence:

1) RVR Log #006-03-0012R, authored by Reporting Employee (R.E.) Correctional Officer L. Goodlett, which states in part:

a) R.E. Correctional Officer L. Goodlett was a witness to Inmate HOLLIS continuously banging on the shower door in 'C' Pod shower and pressing on the alarm button.

b) R.E. Officer L. Goodlett told Inmate HOLLIS to calm down and orders him stop banging on the shower door and pressing the alarm button with negative results.

c) Officer L. Goodlett again trying to calm Inmate HOLLIS down and told him to stop pressing the alarm button with negative results. Officer Goodlett then placed his hand over the alarm button in an attempt to stop Inmate HOLLIS from pressing the alarm button.

d) R.E. Officer L. Goodlett was an eye witness when Inmate HOLLIS made the statement "I can do what I want and if I want to get you, I can." By making the statement, Inmate HOLLIS showed his intent to harm staff.

e) After Inmate HOLLIS made the statement, he aggressively grabbed Officer Goodlett on the wrist area.

2) Incident Report Log #SVP-03-05-04-0227, authored by Lieutenant J. Celaya which states in part:

"On 04/18/05, at approximately 1115 hours, Inmate HOLLIS (E-37508) reached through the shower bars and grabbed Officer L. Goodlett by the wrist. Officer L. Goodlett pulled his hand quickly away and stepped from the shower. Officer L. Zamora removed Inmate HOLLIS from the shower and placed him in handcuffs. Officer Zamora escorted Inmate HOLLIS to the Medical Health Annex and secured him in holding cell #1.

3) The finding of Guilt was based on a compelling preponderance of evidence as provided.

C. Barroga, Correctional Lieutenant

(HEARING CON'T SEE CDCR-115C)

SIGNATURE OF WRITER <i>[Signature]</i>		DATE SIGNED 11/17/06	
GIVEN BY: (Staff's Signature) <i>[Signature]</i>		DATE SIGNED 12/11/06	TIME SIGNED 15:30
<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE			



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

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## RULES VIOLATION REPORT - PART C

CDC NUMBER E-37508	INMATE'S NAME HOLLIS	LOG NUMBER 006-03-0012R	INSTITUTION SVSP	TODAY'S DATE 11/17/06
<input type="checkbox"/> SUPPLEMENTAL <input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input checked="" type="checkbox"/> HEARING <input type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER				

**CONCLUSION:** After further review of Correctional Officers L. Goodlett and L. Zamora Crime/Incident Report CCR-83 Part 'C'. This S/D noticed there was a disparity between the Officers statements regarding the timing of when Officer L. Goodlett informed Officer L. Zamora of when Inmate HOLLIS grabbed Officer Goodlett wrist. This S/D further notice the Inmate's claim that the time of the incident on the RVR was at 1520 hours. After review of the Incident Report it was discovered that the incident occurred at 1115 hours. The 1520 hours was a typographical error and had no bearing on the findings of the RVR. Based on the Reporting Employee Report of Officer L. Goodlett, this S/D finds the preponderance of the evidence has been met to render and sustain a finding of Guilt on the charged offense of Inmate HOLLIS violated CCR §3005(c); specifically, "Battery On A Peace Officer", a Division "B(1)" offense per CCR §332 (d)(1).

**Appeal Rights:** Inmate HOLLIS was advised of his rights to appeal per CCR section §3084.1 (a). Inmate HOLLIS was informed he would receive a copy of the completed RVR upon final review of the Chief Disciplinary Officer.

C. Barroga, Correctional Lieutenant

SIGNATURE OF WRITER <i>C. Barroga</i>		DATE SIGNED 11/17/06	
<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	GIVEN BY: (Staff's Signature) <i>[Signature]</i>	DATE SIGNED 12/1/06	TIME SIGNED 1530

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTION

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## RULES VIOLATION REPORT - PART C

CDC NUMBER E-37508	INMATE'S NAME HOLLIS	LOG NUMBER C06-03-0012R	INSTITUTION S.V.S.P.	TODAY'S DATE
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input type="checkbox"/> HEARING <input checked="" type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER			

Q11) Once your Ad/Sec inmate was secured as indicated in your report. Why was it necessary to approach the shower area, and why was didn't you instruct the control booth officer to release me from the shower, if your Ad/Sec inmate was secured as mentioned in your reports?

A11) N/A

Q12) Where was Officer Zamora presence in the building once Ad/Sec inmate was secured and you approached the shower area?

A12) N/A

Q13) How did you allegedly attempt to calm Inmate HOLLIS down?

A13) N/A, I gave a direct calm order for Inmate HOLLIS to stop his actions.

Q14) Did you observe Inmate HOLLIS make allegations against you to RN. P. Gross in the Facility "C" Medical Clinic for use of unnecessary and excessive force prior to you informing any supervisor that Inmate HOLLIS allegedly aggressively grabbed your wrist?

A14) No.

**Staff Witness Statement:** On 04-25-05, I interviewed staff witness, Correctional Officer L. Zamora, regarding the char and his recollection of the events of that day. Officer Zamora offered the following statement, "During shower program on the date in question, Inmate HOLLIS refused to comply with my instructions to return to his cell. I placed HOLLIS in handcuffs and escorted him to the Facility "C" Medical office for a CDC 7219 and then to holding cell #1 in the health Services Annex."

**Inmate HOLLIS had the following questions for Officer Zamora:**

Q1) At 1115 hours on April 18, 2005 did you generate a true and correct report to the alleged Battery on Staff, and complete report of the alleged incident?

A1) Yes.

Q2) After you and Officer Goodlett instructed the control booth officer to open "C" section shower door to allow me to go back to my cell at 1115 hours on April 18, 2005 did you observe at any time during both you and Officer Goodlett presence at the shower or were the both of you instructed the control booth officer to let me out of the shower; Inmate HOLLIS grab Officer Goodlett's wrist."

A2) No.

Q3) At 1115 hours on April 18, 2005 where was your presence in "C" section from the time I was released from the shower after you and Officer Goodlett instructed the control booth officer to open the "C" section shower door where I was located?

A3) I was between the "C" section phone and the podium.

Q4) At 1115 hours were you present along side Officer Goodlett of wit Officer Goodlett from the time your escort inmate was secured til the time I was placed in handcuffs?

A4) I placed Inmate HOLLIS in handcuffs and escorted him to the Facility "C" Medical officer for a CDC 7219 and then placed him in the holding cell along with Officer Goodlett.

Q5) At what time did Officer Goodlett allegedly inform you that I grabbed his wrist? and was that before the both of you instructed the control booth officer to release me from the shower?

A5) Inmate HOLLIS was done with his shower and I instructed the control booth officer to open the shower door for HOLLIS to return to his assigned cell, and later found out about the incident.

Q6) Did you order Inmate HOLLIS to submit to handcuffs because he refused to lock it up and requested to speak to a supervisor or because Officer Goodlett allegedly informed you that Inmate HOLLIS had just grabbed his wrist?

A6) I ordered Inmate HOLLIS to submit to handcuffs because he was refusing to lock up and was delaying the unit's program. (Can't See CDC-115-C)

TRAVER SC

C.A. Salopek, Correctional Officer

<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER 	DATE SIGNED 11/07/06	
	GIVEN BY: (Staff's Signature) 	DATE SIGNED 11/07/06	TIME SIGNED P15



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

## RULES VIOLATION REPORT - PART C

PAGE 3 OF 3

CDC NUMBER E-37508	INMATE'S NAME HOLLIS	LOG NUMBER C06-03-0012R	INSTITUTION S.V.S.P.	TODAY'S DATE
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input type="checkbox"/> HEARING <input checked="" type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER			

Q7) Did Inmate HOLLIS receive his 1000 hour phone call on April 18, 2005 which he signed up for?

A7) No.

Q8) Was the control booth officer present at the "C" Section Control panel at 1115 hours? And did you or the control booth officer open the shower door?

A8) The control booth officer opened the door after I instructed him to do so.

Q9) After you and Officer Goodlett instructed the control booth officer to open "C" section shower for me to go back to my cell, was I released from the shower and started asking you about my phone call and refusing to lock up? And if so, how was it not possible to observe any of the allegations made by Officer Goodlett in his report dated April 18, 2005 at 1115 hours.

A9) Yes.

**Investigative Employee's Summation:** Inmate HOLLIS requested information regarding the control booth officer on the above mentioned date. A review of the log indicates Correctional Officer Tsai was assigned to work at that post during the time of the incident. It should be noted that Officer Tsai did not submit a report and appears to have no involvement in this incident.

This concludes my report.

Traver SC

C.A. Salopek, Correctional Officer

<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER (4) [Signature]	DATE SIGNED 11/07/06
	GIVEN BY: (Staff's Signature) [Signature]	DATE SIGNED 11/07/06
		TIME SIGNED 1715

# SERIOUS RULES VIOLATION REPORT

Case 2:07-cv-00988-TTH

Document 26

Filed 04/25/2008

Page 18 of 32

CDC NUMBER E-37508	INMATE'S NAME Hollis	VIOLATED RULE NO(S) 3005(c)	DATE 03-17-06	INSTITUTION SVSP	LOG NO. C06-
-----------------------	-------------------------	--------------------------------	------------------	---------------------	-----------------

 REFERRAL FOR FELONY PROSECUTION IS LIKELY IN THIS INCIDENT ☒ YES ☐ NO

## POSTPONEMENT OF DISCIPLINARY HEARING

<input type="checkbox"/> I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE ▶	DATE
<input type="checkbox"/> I REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE ▶	DATE

DATE NOTICE OF OUTCOME RECEIVED	DISPOSITION
<input type="checkbox"/> I REVOKE my request for postponement.	INMATE'S SIGNATURE ▶
	DATE

## STAFF ASSISTANT

STAFF ASSISTANT <input type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE ▶	DATE
<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF
<input type="checkbox"/> NOT ASSIGNED	REASON	

## INVESTIGATIVE EMPLOYEE

INVESTIGATIVE EMPLOYEE <input type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE ▶	DATE 3-29-06
<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON	

EVIDENCE/INFORMATION REQUESTED BY INMATE:

## WITNESSES

WITNESSES REQUESTED AT HEARING (IF NOT PRESENT, EXPLAIN IN FINDINGS)					
<input checked="" type="checkbox"/> REPORTING EMPLOYEE	<input type="checkbox"/> STAFF ASSISTANT	<input type="checkbox"/> INVESTIGATIVE EMPLOYEE	<input type="checkbox"/> OTHER	<input checked="" type="checkbox"/> NONE	
WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)		GRANTED	NOT GRANTED	WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	
J. Z. [unclear] J.F.		<input checked="" type="checkbox"/>	<input type="checkbox"/>		
[unclear] [unclear] [unclear]		<input type="checkbox"/>	<input type="checkbox"/>		

INVESTIGATIVE REPORT: Investigative Employees must interview the inmate charged, the reporting employee, and any others who have significant information, documenting the testimony of each person interviewed. Review of files, procedures, and other documents may also be necessary.

INVESTIGATOR'S SIGNATURE ▶		DATE	
<input type="checkbox"/> COPY OF CDC 115-A GIVEN INMATE	BY: (STAFF'S SIGNATURE) ▶	TIME	DATE



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**November 1997**

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**48.1**  
**PURPOSE**

The purpose of this operational procedure is to provide direction for staff and inmates on the Inmate/Parolee Appeals process. **In addition to this o. p. refer to Operational Procedure 8s Medical Appeals and Correspondence.**

**48.1**  
**RESPONSIBILITY**

The Chief Deputy Warden is responsible for providing first-line supervision for the Appeals Coordinator(s) and the operation of the appeals process within the institution.

**48.2**  
**INFORMAL REVIEW**

To resolve an appeal at the informal level, the inmate will utilize the institutional mail system, or designated Appeals boxes located in each housing unit to forward an informal appeal to the Appeals Office. All informal appeals must be sent to the Appeals Office for tracking and assignment. This is a local procedure only and will remain in effect until further notice.

**SUPERVISOR'S REVIEW**

Informal appeals will not receive a Log number, but, will be entered into the Appeals Tracking System and forwarded to the appropriate department for review. All responses will be reviewed, and initialed by the respondent's immediate supervisor, prior to being returned to the inmate.

**48.3**  
**REFERRAL FOR REVIEW**

- \* Requests for Formal First and Second Level Review responses for appeals shall be forwarded through the institutional mail to the Appeals Office for logging and assignment. Inmate appeals shall be screened and processed by the Appeals Coordinators and then routed to the appropriate Correctional Administrator, Division Head, or Parole Region Administrator for First and Second Level Reviews.
- \* Formal Second Level responses shall be completed by the Chief Deputy Warden via the assigned employee. The Appeals Coordinators shall review all Second Level Review responses for appropriate response and correct format. Inappropriate responses or appeals submitted in the incorrect format will be returned for correction. The appropriate Department Head shall make sure that a copy of the appeal is made, and retained by his/her office prior to assignment of the First and Second Levels of review, in the event that the original appeal is lost/misplaced. The Chief Deputy Warden via the Appeals Coordinators, shall answer appeals regarding serious Rules Violation Reports and Formal Second Level Staff Complaints only.

**48.4**  
**APPEALS ON PROPERTY**  
**LOSS OR DAMAGE**

All inmate appeals regarding property issues that were granted at the First and/or Second Levels of Review, where staff were determined to be at fault, must be accompanied by a memorandum that explains how the damage or loss occurred, the persons or procedure





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responsible, and a plan of action for correction. The memorandum shall be signed by the respective Associate Warden and addressed to the Chief Deputy Warden via the Appeals Office. This memorandum will not become an attachment to the appeal, nor will a copy be provided to the inmate/parolee.

#### **48.5**

### **CITIZEN'S COMPLAINT PROCEDURES**

#### **PRIVATE CITIZEN/NON-INMATE COMPLAINTS**

A citizen who alleges misconduct of a departmental peace officer shall submit a written complaint to the institution head (Warden) or Regional Parole Administrator (RPA) of the area in which the peace officer is employed.

The Employee Relations Officer (ERO) will mail a Notice of Rights and Responsibilities Form to the citizen filing the complaint (refer to Attachment A).

The citizen filing a complaint alleging misconduct of a departmental peace officer employed by the Department of Corrections is required to read and sign the Notice of Rights and Responsibilities Form. The Notice must be returned to the Warden of the area where the misconduct occurred prior to processing the citizen's complaint.

When the Notice of Rights and Responsibilities Form is returned to the institution, it will be attached to the citizen's complaint.

The citizen's complaint will be reviewed by the Warden/designee, and assigned to the Investigative Services Unit (ISU) Lieutenant. A response will be completed and submitted to the Warden/designee for review within 30 days of assignment.

The ERO will inform the accused employee of the citizen's complaint. The employee will sign and receive a copy of the Citizen's Complaint Notification Form (see attachment B) within 24 hours of receipt of the returned Notice of Rights and Responsibilities Form from the complainant.

#### **INMATE COMPLAINTS**

- \* Allegations of staff misconduct by an inmate will be reviewed, screened, and processed by the Appeals Coordinator(s).

#### **A. The Inmate Appeals Office shall**

- \* 1. Identify the involved staff and log the appeal as Category 7 (Staff Complaint). Upon assignment as a Category 7, the Appeals Coordinator shall initiate the following process;



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- A. Initiate and attach a Staff Complaint Worksheet to the appeal. The Appeals Coordinator screening the appeal shall insert the appellant's name, CDC number, staff name (who the allegation is against) and the allegation into the Gray box.
- B. The Appeals Coordinator shall then conduct a review of the Inmate Appeals Tracking System to ensure there is not a duplicate appeal. The Appeals Coordinator shall complete the box labeled "Inmate Appeals - #1".
  - a) If the appeal is a "DUPLICATE" issue, the Appeals Coordinator shall complete Box #1, screen out the appeal, enter the appeal into the I.A.T.S. and continue the process. It will be the Appeals Coordinator's recommendation to screen out the appeal based on a duplicate issue; however, a copy will be made to attach to the original appeal.
  - b) If the appeal is not a duplicate, the Appeals Coordinator shall complete Box #1, enter the appeal into the I.A.T.S. and forward the package to the Investigative Services Unit. This package shall be placed on a Route Slip and Hand Carried directly to Investigative Services Unit. The Secretary shall sign the Route Slip acknowledging receipt of the package, return the original to Appeals and keep a copy for their records.
  - c) Inmate Appeals shall retain a copy of the appeal and submit the original.
- C. Investigative Services Unit (ISU) shall search their data base for any possible duplicate issue(s). The ISU Lieutenant/designee shall complete Box #2 and return to the Inmate Appeals Coordinator within one (1) working day. ISU shall be placed on a Route slip and Hand Carried directly to Inmate Appeals. The Secretary (Inmate Appeals) shall sign the Route Slip acknowledging receipt of the package, retain the original for their records and "Hand Carry" a copy to Inmate Appeals with the original package.
- D. A Route Slip shall be prepared and the package shall be Hand Carried (by Inmate Appeals) to the Employee Relations Officer (ERO) within one (1) working day. The Employee Relations Officer/designee, shall sign the Route Slip, acknowledging receipt of the package, return the original to Inmate Appeals and keep a copy with the package for their records.
- E. The Employee Relations Officer (ERO) will search their data base for any possible duplicate issue(s) and complete Box #3. Upon completion, the ERO/designee shall prepare a Route Slip and Hand Carry the package to the Chief Deputy Warden within one (1) working day. The Chief Deputy





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Warden/designee shall sign the Route Slip, acknowledging receipt of the package, return the original to ERO and keep a copy with the package for their records.

- F. Upon receipt from ERO, the Appeals Coordinator shall review the information, attach a "Staff Complaint – Inmate Appeals" cover sheet and make the appropriate recommendation to the Chief Deputy Warden. This cover sheet will be attached to each CDC 602 (Staff Complaint) and has check boxes for the CDW to designate the appropriate investigation assignment (refer to Attachment D). The Appeals Office Technician will prepare and attach a Route Slip to the package. Inmate Appeals will "Hand Carry" the package directly to the Chief Deputy Warden's Office.
  - G. The Chief Deputy Warden shall review the package and assign the Staff Complaint at the appropriate level.
2. After CDW assigns to appropriate staff for response and investigation, the Appeal will be returned to the Appeals office and the Appeals Coordinator(s) will assign to a department head. This assignment will be no lower than First Level of Review.
  3. If the appeal raises more than a staff complaint issue, the original appeal shall be coded as a Staff Complaint and submitted to the CDW as described above. Additionally, the Appeals Coordinator shall send a written directive to the inmate advising him that only one issue can be addressed per Inmate Appeal and that he will need to submit a separate appeal for each additional issue, i.e., lost property, dismissal of a CDC 115, etc.
  4. If the CDC 602 alleging a staff complaint does not include a signed Notice of Rights and Responsibilities form, the CDC 602 is not to be screened out (until the notice is signed by the inmate.) The CDC 602 is to be processed as normal. However, the First Level reviewer will obtain the inmate's signature on the Notice at the time of interview. Once the Notice is obtained, it is to be attached to the CDC 602.
  5. In the event the inmate elects to withdraw the complaint, staff are still responsible to complete the First Level response and confidential interview and submit to the appeals office.

**B. The Chief Deputy Warden shall:**

 Review the appeal and:

1. Identify the sub Category level to be assigned. In accordance with Administrative Bulletin 98/10, these categories will be determined



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as: Category I = performance related to employee misconduct or  
 Category II = serious employee misconduct that is outside the  
 scope of normal employee supervision

2. If the complaint is determined to be a Category I, the CDW will determine whether it is to be processed by institutional supervisory staff (identified as an "S review") or submitted to ISU for a Category I investigation (identified as an "ISU investigation").
3. The CDW will check the appropriate box on the cover sheet of the CDC 602 packet designating Category I Supervisory or Investigative Services Unit, date and sign, and shall return the packet to the Appeals Office for processing. The CDC 602 packet will be forwarded to appropriate staff or ISU.
4. If the CDC 602 is classified as a Category II, the CDW shall check the box designating Category II Office of Internal Affairs on the cover sheet of the CDC 602 Appeals packet, date and sign, and return the packet to the Appeals Office for processing to the regional Special Agent-In-Charge via ISU for investigation.

**C. The Appeals Office, upon return receipt from the CDW, shall:**

1. Log the CDC 602 into the Appeals tracking system and show it assigned to the appropriate, designated reviewer (Supervisor/Associate Warden, ISU, or OIA). Provide a copy to the Use of Force (UOF) Coordinator, if the issue involves use of force, noting the entity designated to provide review/investigation (S, ISU, or OIA).
- \* 2. If the CDC 602 is assigned as a Category I/"S", the First Level Review will be reissued to the appropriate Associate Warden, who will, in turn, assign a member of his/her staff to investigate the complaint for the First Level response. The assigned staff person shall be no lower than a Lieutenant in rank. If the staff member against whom the complaint is filed is a Lieutenant, a Captain or higher shall be assigned to conduct the investigation. The Appeals Office shall prepare the Notification Forms (Attachments B and C) to the staff member against whom the inmate has filed a complaint. These forms will be included with, but not attached to, the inmate appeal and the packet will be submitted to the assigned Associate Warden who will be responsible for insuring that they are delivered to the appropriate staff member(s). The Staff Complaint Notification Form (Attachment B) must be signed by the staff person named and his/her supervisor and returned to the Appeals Office by the assigned due date. The Staff Complaint Notification Memorandum (Attachment C) is to be retained by the





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staff member against whom the complaint was issued. All staff complaints are maintained and stored in Confidential Files within the ERO's Office. Staff who wish to read the inmate complaint may do so within the assigned Associate Warden's office or in the ERO's office.

A. Upon completion of the Investigation, all pages of the investigation shall be clearly stamped "CONFIDENTIAL" by the Inmate Appeals Office. The Staff Complaint Package shall consist of the following documents;

- "Staff Complaint – Inmate Appeals" Cover Sheet – original
- Staff Complaint Work Sheet – original
- Investigation Report – original
- Appeal - copy

B. The Staff Complaint Package shall be placed on a Route Slip and Hand Carried to the ERO's Office. The ERO's/designee shall sign acknowledging receipt of the package, return the original Route Slip to Inmate Appeals and keep a copy for their files. This package shall be kept in Confidential Files maintained by the ERO's Office.

- \* 3. The CDC 602 (original) will be logged, and completed via the normal appeal process with a Second Level Appeal provided, as needed in time, by the Appeals Office.
- \* 4. If the CDC 602 is assigned as a Category I/"ISU", the traditional First Level Review will be by-passed and the Appeals Office shall generate a standardized Second Level Response which will acknowledge that the appeal has been referred to the ISU for review or investigation but that the results of the review/investigation will not be made known to the inmate. Any final results of the review/investigation which may impact the inmate (such as dismissal of a disciplinary action against the inmate) will be made known to the inmate by the CDW when and if such an action is determined to be appropriate. The Appeals Office shall provide this notification to the inmate within 30 days from the date the packet is returned from the CDW and designated as a Category I/"ISU".
- \* 5. If the CDC 602 is assigned as a Category II/"OIA", the traditional First Level Review will be by-passed and the Appeals Office shall generate a standardized Second Level Response which will acknowledge that the appeal has been referred to the OIA for



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review or investigation but that the results of the review/investigation will not be made known to the inmate. Any final results of the review/investigation which may impact the inmate (such as dismissal of a disciplinary action against the inmate) will be made known to the inmate by the CDW when and if such an action is determined to be appropriate. The Appeals Office shall provide this notification to the inmate within 30 days from the date the packet is returned from the CDW and designated as a Category II/"OIA".

6. Notification forms to the staff member shall be completed by the Appeals Office and sent via the appropriate Associate Warden's office and supervisor.
7. A copy of the CDC 602 complaint will be produced by the ERO's office for the staff member to review if so desired.
8. Generate a weekly report to the CDW identifying those appeals assigned to ISU and OIA by date assigned and still outstanding. Provide copies of the report to ISU.
9. Shall meet monthly with ISU and the CDW to discuss outstanding Category I and II appeals.

**COORDINATION OF APPEAL  
 REVIEW BETWEEN APPEALS  
 OFFICE, INVESTIGATION  
 SERVICES UNIT AND USE OF  
 FORCE COORDINATOR**

- The Appeals Office shall provide copies of Inmate Appeals alleging misuse of force by institutional staff and/or staff misconduct to the UOF following the issuance of an Appeal Log Number and categorization by the CDW.
- The Appeals Office shall maintain a Log of those appeals shared with the ISU noting the Appeal Log Number, Inmate Name and CDC Number, and date of issuance. A copy of this report will be provided to the Chief Deputy Warden, the ISU Captain, and the UOF weekly in conjunction with the weekly overdue Inmate Appeals List.
- Information shared between the Appeals Office, ISU, the OIA, or the UOF shall be treated as confidential.
- A meeting between the Appeals Office, ISU, and UOF, and CDW shall occur monthly to coordinate the status of any outstanding Inmate Appeals pending UOF investigations.





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**48.6**  
**INVESTIGATION**

The Warden/designee will assign an employee at the appropriate level to conduct the investigation of the complaint. Under no circumstance will an employee be assigned to investigate the issue at a level of less than a Lieutenant. If the appeal alleges misconduct against a Lieutenant, a Captain or higher will conduct the investigation.

The investigator will:

1. Interview the inmate/complainant.
2. Interview the employee(s) who is/are the subject of the complaint after being notified at least 24 hours prior to the investigative interview, simultaneously in writing, of both the subject matter and his/her right to representation prior to any interrogation, investigative interview, fact-finding or shooting review board, or similarly proposed discussion which has the potential of obtaining information which, if found to be true, could, or is likely to, result in formal adverse action. The employee will be given a reasonable opportunity to secure the representative of his/her choice. The employee will be provided with a copy of all documents and/or other investigative material in accordance with the Peace Officer Bill of Rights (POBR) and any current or subsequent court decisions which impact or alter Government Code Section 3300 et seq.
3. Interview any witnesses with relevant information.
4. Review pertinent reports, and other physical evidence.
5. Within 30 days complete a written response to the complainant.

**Confidentiality of Reports**

The investigative report(s) is/are CONFIDENTIAL, and shall not be given to the inmate. The investigative report(s) shall be clearly stamped "CONFIDENTIAL" in red ink. These Confidential Report(s) shall be maintained by the ERO's Office.

If any misconduct is discovered, appropriate corrective measures will be taken. The findings are CONFIDENTIAL, and shall not be disclosed.

**Warden/CDW Review**

Following the review of the Confidential Report by the Warden/Chief Deputy Warden, an appropriate action will be taken.

1. Log the complaint.
2. Forward the completed response/written complaint to the citizen.
3. A copy of the citizen's complaints will be retained in the Warden's Office for a period of five years.

**48.7**  
**CDC 1824 Reasonable**

Pursuant to the Disability Placement Program Administrative Bulletin AB-96/23, CDC 1824 Reasonable Modification or Accommodation



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**Modification or  
Accommodation Request  
Distribution**

Request Forms shall be distributed to all housing units.

It is the responsibility of the Appeals Coordinator to monitor all housing units for distribution and compliance. The CDC 1824 Reasonable Modification or Accommodation Request Forms shall be distributed the first week of every month, and/or as needed basis.

When an inmate files an appeal on an inappropriate form, the Appeals Coordinator shall attach the appropriate form and process the appeal as a CDC Form 1824. The Appeals Coordinator shall screen the request to determine if it meets eligibility criteria of CCR Section 3084. If the request is screened out, a copy of the CDC Form 1824 shall be maintained on file in the Appeals Coordinator's office. Comments explaining the reason why the request was screened out shall be entered in the comment field of the Inmates Appeals Automated Tracking System.

It is the mutual responsibility of the inmate and SVSP staff to verify a disability when a request for accommodation is made. The inmates must cooperate with SVSP staff in the staff's effort to obtain documents or other information necessary to verify the claimed disability.

**Staff Assistant and/or Translator  
for DPP Inmates**

It is the responsibility of each Correctional Administrator of the respective complex, to insure that a caseworker is assigned as Staff Assistant and/or a qualified Translator (American Sign Language, etc.) is provided for inmates with hearing, vision, and speech impairments, in order to ensure that communication with such inmates is as effective as it would be if the inmate did not have the disability, when translating/communicating the CDC 1824 issue(s).

**TRACKING/MONITORING**

All CDC Form 1824's shall be treated as "PRIORITY". An Appeals Coordinator shall review, log and appropriately assign to a Correctional Administrator/Department Head upon receipt. All CDC Form 1824's shall be hand carried. The following procedure shall be followed in the distribution of the appeals;

- Inmate Appeals shall prepare a Route Slip and attach to the appeal.
- Inmate Appeals shall contact the appropriate Correctional Administrator \ Department Head and notify them of the "Priority" assignment. It is the responsibility of the Correctional Administrator / Department Head or their designee, to pick up the assignment at the Inmate Appeals Office within one (1) hour of notification. Should the appeal failed to be picked up within the specified time frame, the Chief Deputy Warden shall



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be notified to make the appropriate arrangements.

- Upon completion of the CDC-1824, the Correctional Administrator / Department Head or their designee, shall "Hand Carry" the document to the Inmate Appeals Office. These documents will not be placed in any form of mail box but delivered directly to staff.

Upon resolution of the Form 1824, a copy of the completed form will be forwarded to the ADA/DPP Coordinator per policy.

## **MEDICAL APPEALS**

All inmates submitting appeals; which are of a medical, dental or psychiatric nature, shall utilize a CDC-602 form which has "MEDICAL APPEAL" stamped across the top.

It is the responsibility of the Appeals Coordinator to monitor all housing units for distribution and compliance.

When an inmate files an appeal on an inappropriate form, the Appeals Coordinator will either attach the appropriate form or simply mark "MEDICAL APPEAL" across the top of the appeal and process.

Informal Level Medical appeals shall be prioritized. These appeals shall be processed and placed on a Route Slip by the close of business. The Medical Appeals Analyst/designee shall pick up assignments each morning from the Inmate Appeals Office. This is a local procedure only and will remain in effect until further notice.

First and Second Level appeals shall be processed as appropriate.

Refer to Operational Procedure 8s regarding Medical Appeals.

## **ANNUAL REVIEW/ REVISION DATE**

This operational procedure will be reviewed/revised by the Appeals Coordinator(s) annually. Next date of review/revision is August 2005.

**A. P. KANE**  
**WARDEN (A)**  
**SALINAS VALLEY STATE PRISON**

**DATE:**





**EDMUND G. BROWN JR.**  
Attorney General

State of California  
DEPARTMENT OF JUSTICE

**ORIGINAL**

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SAN FRANCISCO, CA 94102-7004

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E-Mail: [Robert.Kearney@doj.ca.gov](mailto:Robert.Kearney@doj.ca.gov)

**FILED**

November 7, 2007

NOV 09 2007

CONNIE MAZZEI  
CLERK OF THE SUPERIOR COURT  
MARY CASTRO DEPUTY

NOV 09 2007

The Honorable Stephen A. Sillman  
Monterey County Superior Court  
240 Church Street  
Salinas CA 93902-1819

RE: INFORMAL RESPONSE  
*In re Marvin G. Hollis*, Case No. HC 5876

Dear Judge Sillman:

This letter is written pursuant to the Court's request for an informal response to inmate Marvin Hollis's petition for writ of habeas corpus. Petitioner Hollis is a California state inmate at High Desert State Prison who alleges that Salinas Valley State Prison (SVSP) staff failed to properly process his administrative appeal. Hollis also contests the outcome of a Rules Violation Report.

After reviewing Hollis's petition and speaking with prison staff, it was discovered that Hollis's appeal submitted on May 15, 2007, contesting Rule Violation Report number FD-03-0071 was improperly screened out. The appeal is now approved for a Second Level Response, while it appears that the merits of this appeal will be addressed by Second Level Appeal Response, any modification order is contingent on Hollis re-submitting the original appeal with attached supporting documentation. Additionally, Hollis should attach this informal response letter per the request of the SVSP Appeals Coordinator Variz.

Because Hollis has received the relief requested, namely a review of his administrative appeal, this claim should be dismissed as moot. As a general principle, it is the duty of a court to decide only "actual controversies" by judgments which can be carried into effect. "[A]lthough a case may originally present an existing controversy, if before decision it has, through act of the parties or other cause, occurring after the commencement of the action, lost that essential character, it becomes a moot case or questions which will not be decided by the court." (*Wilson v. Los Angeles County Civil Service Com.* (1952) 112 Cal.App.2d 450, 453.)

With respect to his substantive claims, including whether he was properly found guilty of the rule violations, the court cannot review these claims because they have yet to be

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administratively exhausted. It is well settled that an inmate must exhaust all administrative remedies available to him before he may seek relief on a habeas corpus petition. (*In re Dexter* (1979) 25 Cal.3d 921, 925; *In re Muszalski* (1975) 52 Cal.App.3d 500, 503.) Adherence to the exhaustion principle ensures deference to the expertise and discretion of administrative agencies and forestalls a deluge of untimely petitions to an often overburdened judiciary. (*McKart v. United States* (1969) 395 U.S. 185, 193-195.) Hollis must first fully exhaust his administrative remedies and allow the prison to fully investigate and review any issues before judicial review is proper. Accordingly, respondent respectfully requests that this petition be dismissed without prejudice to Hollis.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Reyff', with a large, stylized flourish extending from the end of the signature.

ROBERT R. REYFF  
Deputy Attorney General  
State Bar No. 74945

For EDMUND G. BROWN JR.  
Attorney General

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **In re Hollis**

No.: **HC 5876**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On November 8, 2007, I served the attached

**INFORMAL RESPONSE**

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Marvin G. Hollis  
E-37508  
High Desert State Prison  
Facility A  
P.O. Box 3030  
Susanville, CA 96127  
*In Pro Per*  
*E-37508*

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on November 8, 2007, at San Francisco, California.

\_\_\_\_\_  
S. Redd  
Declarant

\_\_\_\_\_  
*S. Redd*  
Signature



Operational Procedure #605  
Attachment EPROOF OF SERVICE BY MAIL  
[C.C.P. 1013, 2015.;28 U.S.C. 1746]

STATE OF CALIFORNIA )  
 )  
County of Lassen ) SS:

I, (A) MARVIN HOLLIS, am a resident of the High Desert State Prison at Susanville, County of Lassen, California, am at least 18 years of age. My mailing address is P.O. Box 3030, Susanville, CA 96127.

On (B) 4-22-, 2008, I served a true and correct copy of the following document(s):

(C) OPPOSITION AND OBJECTION TO DEFENDANT'S  
REPLY TO PLAINTIFF'S OPPOSITION TO MOTION TO DISMISS,  
AND DECLARATION.

on each party listed below by placing it in an envelope, with adequate postage provided, and by depositing said envelope in a box for the United States Mail at HDSP, P.O. Box 3030, Susanville, CA 96127.

Each party to the action has been duly served.

This copy is being mailed to (D): U.S. NORTHERN DISTRICT COURT  
450 GOLDEN GATE AVE  
SAN FRANCISCO, CA, 94102

I have mailed additional copies to (D): C. FRITZ, DEPUTY ATTORNEY GENERAL  
455 GOLDEN GATE AVE. STE. # 11000  
SAN FRANCISCO, CA, 94102

There is regular delivery service by the United States Mail between the above place a mailing and the parties' listed.

I declare, under penalty of perjury, that the foregoing is true and correct.

Dated (E): 4-22- 2008, at Susanville, California.

Signed: Marvin Hollis CDCR I.D. # E-37508

## HDSP MAILROOM ACKNOWLEDGMENT OF MAILING

DATE: \_\_\_\_\_

SIGNED: \_\_\_\_\_